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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,007	06/25/2001	Mitchell V. Bruce	1676A1	9402
23342	7590	02/24/2004	EXAMINER	
KILPATRICK STOCKTON LLP 1001 WEST FOURTH STREET WINSTON-SALEM, NC 27101			KOCH, GEORGE R	
			ART UNIT	PAPER NUMBER

1734

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/891,007

Applicant(s)

BRUCE ET AL.

Examiner

George R. Koch III

Art Unit

1734

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 27-32 and 42.


Claim(s) objected to: 5, 11, 12 and 46.

Claim(s) rejected: 1-4, 6-8, 10, 13-17, 41, 43-45, and 47-50.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

  
2/12/04

Continuation of 2. NOTE: Applicant's previous reply on 11/26/2003 had overcome the following rejection(s): 5, 11-12, 27-32, 42 and 46. Claims 5, 11-12, and 46 are objected as dependent claims of rejected independent claims, but would be allowable if rewritten in independent form with all of the limitations of the parent claims. With respect to claims 5, and 11-12, applicants arguments on pages 2 (filed 11/26/2003) point out that the prior art of record that the detector is operable to generate a signal to the flow controller to control the flow of solution to the first reservoir. With respect to claim 46, it is noted that the detector of Switall is not operable to generate a signal to the flow controller to control the flow of the solution to the first volume of solution. Furthermore, Claims 27-32 and 42 are allowed. The prior art of record does not, as noted in applicants remarks (filed 11/26/2003) on page 22, the prior art of record does not disclose that the detector is operable to generate a signal to the flow controller in response to the monitored solution level of the auxillary reservoir. However, applicant's current reply, which incorporates some of the material indicated allowable in claim 5 into claim 1, does not incorporate all of the material indicated allowable (for example, the limitation of generating a signal to the flow controller to control the flow of solution to the first reservoir.

Continuation of 3. Applicant's reply has overcome the following rejection(s): As noted in the previous advisory action, the rejections of claims 5, 11-12, 27-32, 42 and 46 has been overcome on the basis of previously presented arguments. With respect to claims 5, and 11-12, as worded in those claims are considered objected as dependent claims of rejected independent claims, but would be allowable if rewritten in independent form with all of the limitations of the parent claims. With respect to claims 5, and 11-12, applicants arguments on pages 20 (filed 11/26/2003) point out that the prior art of record that the detector is operable to generate a signal to the flow controller to control the flow of solution to the first reservoir. With respect to claim 46, it is noted that the detector of Switall is not operable to generate a signal to the flow controller to control the flow of the solution to the first volume of solution. Furthermore, Claims 27-32 and 42 are allowed. The prior art of record does not, as noted in applicants remarks (filed 11/26/2003) on page 22, the prior art of record does not disclose that the detector is operable to generate a signal to the flow controller in response to the monitored solution level of the auxillary reservoir.

Continuation of 5. does NOT place the application in condition for allowance because: contrary to applicants assertion, the newly proposed limitations for claim 1 are not the previously searched and examined limitations of claim 5. Thus, the newly proposed claim 1 would be a new issue requiring further search and consideration..